

EXHIBIT A

The most salient facts that the Court disregarded are as follows:¹

- “The VWP is a program that exists solely to provide ‘detainees opportunities to work and earn money while confined’” ECF 227, 4,9; PBNDS § 5.8; ECF 229-3, Johnson Dec. ¶¶ 12, 23-23.
- “The purpose of the Voluntary Work Program of the 2011 [PBNDS] is to provide detainees opportunities to work and earn money while detained, subject to the number of work opportunities available and within the constraints of the safety, security, and good order of the facility. The intent of the Voluntary work program is to reduce the negative impact of confinement through decreased idleness, improved detainee morale, and fewer disciplinary incidents.” 229-3, Johnson Dec. ¶¶ 11 (emphasis added).
- “Once detainees are released, they can no longer perform VWP work at the NWIPC because VWP positions are only available to detainees – those that reside and sleep at the NWIPC.” Dkt. No. 227, 10 (citing ECF 228, Dec. of Scott ¶¶ 4-6).
- “Consistent with the terms of the ICE Contract, participation in the VWP is limited to detained individuals—the positions are not offered to the public or to GEO’s employees.” ECF 227, 4, 10 (citing ECF 228, Dec. of Bruce Scott, ¶¶ 4-6).
- “[E]ach job description submitted to the Court by Plaintiffs prominently includes the heading ‘Detainee Job Description’ in bold and underline, making clear that the tasks are limited to detainees who, by definition, live and sleep at the facility.” ECF 278, 4-5 (*citing* PBNDS § 5.8).
- “[U]nlike a traditional minimum wage job, detainee participants do not show up for a ‘shift’ and then work the entire duration of the shift at the direction of an

¹To avoid any doubt that these facts were before the Court, GEO provides its factual support as it appeared in its briefing or exhibits verbatim.

‘employer.’ Rather, because detainees perform very limited tasks, GEO cannot direct them to do tasks for which they did not volunteer. For example, a food porter ‘can’t do his job when there’s no food there.’ Ex. E, Tracy 32:6. Consequently, regardless of the length of an assigned shift in the VWP, detainees do what they please until it is their time to perform the discrete task for which they have volunteered. As detainees are not at GEO’s disposal for an entire ‘shift,’ once it is time for the task to be completed, a guard may have to ‘go wake him up or let him know, if he’s outside playing basketball or whatever[.]’” ECF 274, 10 (citing Tracy Dep. 32:6-9).

- “Each job description submitted to the Court by Plaintiffs prominently includes the heading ‘Detainee Job Description’ in bold and underline, making clear that the tasks are limited to detainees who, by definition, live and sleep at the facility.” ECF 278,4 (citing ECF 223-25, 2-7.).